

What You Need to Know...About Import and Take of Marine Mammals

All species of marine mammals are protected under the Marine Mammal Protection Act, and some also are protected under the U.S. Endangered Species Act and the Convention on International Trade in Endangered Species. These animals include whales, dolphins, porpoises, seals, sea lions, polar bears, sea otters, dugongs, and manatees.

The U.S. Fish and Wildlife Service has jurisdiction over the following marine mammals under the Marine Mammal Protection Act and the Endangered Species Act and all marine mammals listed under CITES, including those listed below.

SPECIES	COMMON NAME	MMPA	ESA	CITES
<i>Ursus maritimus</i>	polar bear	YES	Not listed	II
<i>Enhydra lutris</i>	sea otter	YES	Threatened*	I**
<i>Odobenus rosmarus</i>	walrus	YES	Not listed	III
<i>Dugong dugon</i>	dugong	YES	Endangered	I
<i>Trichechus manatus</i>	West Indian manatee	YES	Endangered	I
<i>Trichechus inunguis</i>	Amazonian manatee	YES	Endangered	I
<i>Trichechus senegalensis</i>	West African manatee	YES	Threatened	II
<i>Lontra (=Lutra) felina</i>	marine otter	YES	Endangered	I*

*Southern population (California) only.

***Enhydra lutris nereis* in Appendix I; Lutrinae spp. (all species except those in App. I) in Appendix II.

The National Marine Fisheries Service has jurisdiction of all other marine mammals under the MMPA and ESA, while the U.S. Fish and Wildlife Service retains jurisdiction for all marine mammals under CITES.

The Marine Mammal Protection Act

In general, it is prohibited under the Marine Mammal Protection Act to (1) TAKE marine mammals; (2) IMPORT marine mammals; and (3) POSSESS, TRANSPORT, SELL OR OFFER FOR SALE unlawfully taken marine mammals.

Exceptions may be made for (1) PRE-ACT specimens taken before December 21, 1972; (2) INTERNATIONAL AGREEMENTS ENTERED INTO BY THE UNITED STATES before December 21, 1972; (3) ALASKAN NATIVES; (4) BY PERMIT for scientific research, public display, enhancing the survival or recovery of a species, and incidental take in commercial fisheries; and (5) IF A WAIVER is granted by the Federal Government.

The U.S. Endangered Species Act

In general, it is prohibited under the Endangered Species Act to (1) TAKE listed species; (2) IMPORT listed species; (3) EXPORT listed species; (4) SELL OR OFFER FOR SALE listed species; and (5) POSSESS OR TRANSPORT unlawfully taken specimens.

Exceptions may be made for (1) PRE-ACT specimens acquired on or before December 28, 1973; and (2) BY PERMIT for scientific research and/or enhancement of propagation or survival if this species is

ENDANGERED, and also for zoological exhibition, educational purposes, and special purposes consistent with the Act if the species is THREATENED.

The Convention on International Trade in Endangered Species (Cites)

All cetaceans (whales, dolphins, and porpoises), all sirenians (manatees and dugongs) and several marine carnivores (seals, otters, walrus, and polar bears) are protected under CITES.

CITES applies to international shipments of listed species. It does not apply to activities conducted solely within the United States. The U.S. Fish and Wildlife Service has jurisdiction for import and export of all marine mammals listed under CITES.

Animals listed on Appendix I of CITES may be shipped internationally under a permit issued by the country of import AND a permit issued by the country of export. Animals listed on Appendix II of CITES may be shipped internationally under a permit issued by the country of export. Imports from the sea of Appendix I and II species may be made under permit from the country of import. Certificates of exception may be used in lieu of permits if animals are bred in captivity or were acquired before the date that CITES applied to them.

Polar bears are provided additional protection under a five-Nation international agreement. In the U.S. this agreement is implemented by the provisions of the Marine Mammal Protection Act.

For further permit information about species under jurisdiction of the National Marine Fisheries Service, contact:

National Marine Fisheries Service
Office of Protected Species and Habitat Conservation
1335 East West Highway
Silver Spring, Maryland 20910.
Call 301-713-2289



For Further Information Contact: Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203, phone 703-358-2104 or 1-800-358-2104, fax 703-358-2281; internet <http://www.fws.gov/~9dia/index.html> (7/95)



FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION FORM

RETURN TO:

Office of Management Authority
U.S. Fish and Wildlife Service
4401 N. Fairfax Drive, Room 700
Arlington, VA 22203
1-800-358-2104 or 703-358-2104

Type of Activity:

TAKE/IMPORT/TRANSPORT OF MARINE MAMMALS

A. COMPLETE IF APPLYING AS AN INDIVIDUAL			
1. Name:			
2. Street address:			3. County:
4. City, State, Zip code:			
5. Date of birth:	6. Social Security No.:	7. Occupation:	
8. List any business, agency, organizational, or institutional affiliation associated with the wildlife to be covered by this license or permit:			
9. Home telephone number:	10. Work telephone number:	11. Fax number:	12. E:mail address:

B. COMPLETE IF APPLYING AS A BUSINESS, CORPORATION, PUBLIC AGENCY OR INSTITUTION			
1. Name of business, agency or institution:			2. Tax identification no.:
3. Street address:			4. County:
5. City, State, Zip code:			
6. Describe the type of business, agency, or institution:			
7. Name and title of person responsible for permit (president, principal officer, director, etc.):			
8. Home telephone number:	9. Work telephone number:	10. Fax number:	11. E:mail address:

C. ALL APPLICANTS COMPLETE	
1. Do you currently have or have you had any Federal Fish and Wildlife License or Permit? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, list license or permit numbers:	
2. Have you obtained any required state or foreign government approval to conduct the activity you propose? Yes <input type="checkbox"/> No <input type="checkbox"/> Not required <input type="checkbox"/> If yes, provide a copy of the license or permit.	
3. Enclose check or money order payable to the U.S. FISH AND WILDLIFE SERVICE in the amount of \$100. Institutions which qualify under 50 CFR 13.11(d)(3) may be exempt from fees.	
4. ATTACHMENTS: Complete the additional pages of this application. Application will not be considered complete without these pages. Incomplete applications may be returned.	
5. CERTIFICATION: I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a license or permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal penalties of 18 U.S.C. 1001.	
6. Signature (in ink) of applicant or person responsible for permit in Block A or B	7. Date:

D. TAKE/IMPORT/TRANSPORT OF MARINE MAMMALS

1. Type of activity requested (mark all that apply): ☐ Take ☐ Import
2. Purpose of activity (mark all that apply): ☐ Public Display ☐ Scientific Research ☐ Enhancement
3. If you are requesting **renewal or amendment** of an existing permit between reporting dates, include an update of any activity that has occurred under the permit since the last report.
4. *Scientific name (genus and species)* *Common name*

Respond to the following questions on a separate sheet of paper. Mark those that are not applicable with "N/A".

5. For EACH species, provide the following information:
 - a. The quantity (e.g, 2 animals and 20 samples per year).
 - b. Complete description (e.g., birth date; sex , if known; and identifying features, such as tattoo #, ISIS#; or if biological samples, the size of the sample).
 - c. Whether the animal was nursing or pregnant near term when taken.
6. Provide complete information on the **source of the marine mammals** including:
 - a. For **captive-born animals**, a breeder's statement or other information to show that the animal was born in captivity.
 - b. For **captive-held animals that were taken from the wild**, information on the source of the animals including any permit number under which the animal was originally collected from the wild, if known.
 - c. For animals to be taken from the **wild**, provide a description of the efforts made to utilize captive animals or parts thereof, in lieu of taking animals from the wild, and the population estimate.
7. For activities involving **TAKE** of captive or wild animals and/or harassment of wild animals, respond to the following:
 - a. Provide a description of the specific activities (e.g., capture, tag, radio tag, kill, etc.) to which each animal will be subjected and the number of times that each animal will be taken.
 - b. If this species is protected under the Endangered Species Act (ESA), attach a justification for taking an ESA-listed species rather than taking a similar non-ESA-listed species.
 - c. A statement with the names and qualifications of collector(s) and other personnel involved in the collection (curricula vitae may be submitted), the holding time required prior to transport or release, and a description of the method of capture and gear.

- d. List your activities which will or may cause harassment, the number of animals that may be harassed, the precautions that will be taken to minimize the likelihood that harassment will occur, and the actions taken if harassment occurs.
 - e. Use of drugs: describe the purpose of using the drug(s), method of application, kind and combination of drugs and dosage rates (ml/kg), the required holding time as well as provisions to minimize adverse reaction(s), minimize the chance that drugged animals will escape prior to complete immobilization, and to ensure that the animal is fully recovered prior to release.
 - f. Marking/tagging: describe the type of tag (including weight and size), the number of tags to be applied per animal, the number of animals to be tagged, methods and location of attachment, whether recapture will be necessary (if so, how many times), whether the mark/tag has been used previously on this species, what are the known adverse effects, the means of monitoring new marks/tags for adverse effects, the actions to be taken in the event that the marking/tagging has significant adverse impact on the animal(s), and the method of release;
8. For activities involving **IMPORT**, provide the name of the exporting country and, if applicable, the country and age when taken from the wild, whether the animal was pregnant or nursing at the time of taking, and a description of the manner in which it was taken from the wild.
9. For activities involving **TRANSPORT of live animals**, state the means of transportation, provide the dimensions and construction of the container or cage, the qualifications of the person accompanying the animal, the duration of transit(s), and ATTACH a certification by a licensed veterinarian that the transportation plans are adequate.
10. For **maintenance** of marine mammals provide:
- a. A complete description, including photographs and/or diagrams (**no blueprints**), of the area and facilities where the animals will be held (including the dimensions of pools and haul-out areas), the number of animals of the same species (include age and sex) presently maintained at the facilities, and whether there is space for additional animals without exceeding USDA/APHIS standards.
 - b. A statement (or attach curricula vitae) of the animal caretakers which describes their specific experience in the care, handling, and maintenance of marine mammals.
 - c. A list of other marine mammals maintained at the facility.
 - d. A description of all marine mammal deaths at the facility within the past five years and the steps taken to prevent or decrease similar mortalities.
 - e. A copy of your APHIS, AWA license.
11. Additional requirements for **public display**:
- a. Provide information to show that the facility is open to the general public without limitations or restrictions (other than by the charging of an admission fee).
 - b. Provide information to show that the facility offers a program for education or conservation purposes that is based on professionally recognized standards of the public display community.

12. Additional requirements for **scientific research**:

- a. Attach a copy of the formal research proposal or contract or else a detailed description of the proposed project, objectives, anticipated results, disposition of specimen material or animals, and how the proposed project will enhance or benefit the wild population.
- b. If the research involves incidental or intentional mortal takes, provide the number of deaths requested/anticipated, a justification as to why the research should be conducted, and the steps to be taken to reduce the likelihood of the number of incidental deaths or deaths in excess of that authorized.

13. Additional requirements for **enhancement**:

- a. Provide information to show that the activity is likely to contribute significantly to maintaining or increasing the distribution or population numbers necessary to ensure the survival or recovery of the species or stock.
- b. Provide information to show that the activity is consistent with any conservation plan or recovery plan for the species or stock, or if there are no such plans, that the activity is consistent with the actions required to enhance the survival or recovery of the species or stock that would be addressed in a conservation or recovery plan.

14. If any of the requirements for information been waived, indicate what information requirements have been waived and provide the basis for the waiver(s).

PERMIT APPLICATION FORM INSTRUCTIONS

The following instructions pertain to the standard License/Permit Form 3-200 that must be completed as an application for a U.S. Fish and Wildlife Service permit. Please read the General Permit Procedures (50 CFR 13) sent with this package.

- * Complete all appropriate blocks/lines. Print clearly or type in the information. *A complete application prevents delays!*
- * Sign the application *in ink* and send an *original* to the address on the top of the application. Faxed copies will not be accepted.
- * Applications will be processed in the order they are received.

Most of the application form is self-explanatory, but the following provides some further assistance for completing the form.

COMPLETE EITHER BLOCK A OR BLOCK B:

Block A. **"Complete if applying as an individual"** - Enter the complete name of the responsible party who will be the permittee if a permit is issued. Enter personal information that identifies the applicant. All blocks must be completed. If you are applying on behalf of a client, the personal information must pertain to the client. A notarized document stating power of attorney must be included with the application.

Block B. **"Complete if applying as a business, corporation, public agency or institution"** - Enter the complete name and address of the business, agency or institution who will be the permittee if a permit is issued. Give a brief description of the type of business the applicant is engaged in, the name and phone number of the person in charge, and if the company is incorporated, the state in which it was incorporated.

ALL APPLICANTS COMPLETE BLOCK C:

Block C.1 **"Do you currently have or have had any Federal Fish and Wildlife license or permits?"** - List the number of any FWS or CITES permits. If applying for a renewal, the original permit must be returned with this application.

Block C.2 **"Have you obtained any required state or foreign government approval to conduct the activity you propose?"** - If the proposed activity is regulated, check the appropriate box. If "yes", list the State or foreign countries involved and type of document required. Include a copy of these documents with the application. If "no" indicate what steps you have taken to secure approval (use attachment if necessary). If the proposed activity is not regulated check "not required".

Block C.3 **"Check or money order (if applicable)"** - There is a permit processing fee unless you are fee exempt. Consult the enclosed APPLICATION PROCESSING FEE SCHEDULE information. Make the check or money order payable to the **U.S. Fish and Wildlife Service** and attach it to the application form. If fee exempt, write "exempt" in this space.

Block C.4 **"Attachments"** - Consult the fact sheet or regulation. Provide any required additional information outlined on the supplemental page(s) of the application form. Be as complete and descriptive as possible. If there is any doubt as to the information's relevance, include it with the application. An incomplete or unclear application may cause delays in processing.

Block C.5 **"CERTIFICATION"** - The **individual applicant in Block A, the person named in Block B, or person with power of attorney must sign and date** the application in ink. This signature binds that person to the statement of certification. This means that you certify that you read and understood the regulations that apply to the permit. You also certify that everything included in the application is true to the best of your knowledge. Be sure to read the statement and re-read the application before signing.

Application for a Federal Fish and Wildlife License/Permit

PRIVACY ACT - NOTICE

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), please be advised that:

The gathering of information on fish and wildlife is authorized by: (a) Bald Eagle Protection Act (16 U.S.C. 663a); (b) Endangered Species Act of 1973 (16 U.S.C. 1539); (c) Migratory Bird Treaty Act (16 U.S.C. 703-711); (d) Marine Mammal Protection Act of 1972 (16 U.S.C. 1371-1383); (e) Wild Bird Conservation Act (16 U.S.C. 4901-4916); (f) Lacey Act (18 U.S.C. 42 & 44); and (g) Title 50, Part 13, of the Code of Federal Regulations.

Submission of requested information is required in order to process applications for licenses or permits authorized under the above acts. With the exception of your social security number, failure to provide all requested information will be sufficient cause for the U.S. Fish and Wildlife Service to deny a permit.

Applications for license or permits authorized under the Endangered Species Act of 1973 (16 U.S.C. 1539) and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371-1383) will be published in the **Federal Register** as required by the two acts.

In the event a violation of a statute, regulations, rule, order, or license, whether civil, criminal, or regulatory in nature is discovered during the application review process, the requested information may be transferred to the appropriate Federal, State, local, or foreign agency charged with investigating or prosecuting such violations.

In the event of litigation involving the records or the subject matter of the records, the requested information may be transferred to the U.S. Department of Justice or appropriate law enforcement authorities.

Information provided in the application may be disclosed to subject matter experts, and State and other Federal agencies, for the sole purpose of obtaining advice relevant to issuance of the permit.

For individuals, personal information such as home address and telephone number, financial data, and personal identifiers (social security number, birth date, etc.) will be removed prior to any release of the application.

FREEDOM OF INFORMATION ACT - NOTICE

For organizations, businesses, or individuals operating as a business (i.e., permittees not covered by the Privacy Act), we request that you identify any information that should be considered privileged and confidential business information to allow the Service to meet its responsibilities under FOIA. Confidential business information must be clearly marked "Business Confidential" at the top of the letter or page and each succeeding page, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary and remaining documents may be made available to the public under FOIA [43 CFR 2.13(c)(4), 43 CFR 2.15(d)(1)(i)].

APPLICATION PROCESSING FEE

The fee to process a permit application is \$25.00. Checks should be made payable to "U.S. Fish and Wildlife Service". The fee applies to permit applications, renewals, and amendments. The processing fees shall not be refunded if the permit is issued or denied, or if the application is abandoned.

The fee schedule does not apply to any Federal, State, or local government agency or individual or institution under contract to such agency for the proposed activities. Until further notice, the fee will be waived for public institutions. As defined in CFR 10.12 - "Public" as used in referring to museums, zoological parks, and scientific or educational institutions, refers to such as are open to the general public and are either established, maintained, and operated as a governmental service or are privately owned and organized, but not operated for a profit."

APPLICATION PROCEDURES -- EXCERPTS FROM 50 CFR 13 -- GENERAL PERMIT PROCEDURES

Subpart A -- Introduction

§ 13.1 General.

Each person intending to engage in an activity for which a permit is required by this subchapter B shall, before commencing such activity, obtain a valid permit authorizing such activity. Each person who desires to obtain the permit privileges authorized by this subchapter must make application for such permit in accordance with the requirements of this part 13 and the other regulations in this subchapter which set forth the additional requirements for the specific permits desired. If the activity for which permission is sought is covered by the requirements of more than one part of this subchapter, the requirements of each part must be met. If the information required for each specific permitted activity is included, one application will be accepted for all permits required, and a single permit will be issued.

§ 13.2 Purpose of regulations.

The regulations contained in this part provide uniform rules, conditions, and procedures for the application for and the issuance, denial, suspension, revocation, and general administration of all permits issued pursuant to this subchapter B.

§ 13.3 Scope of regulations.

The provisions in this part are in addition to, and are not in lieu of, other permit regulations of this subchapter and apply to all permits issued thereunder, including "Import and Marking" (part 14), ~~"Feather Imports"~~ ["Wild Bird Conservation"] (part 15), "Injurious Wildlife" (part 16), "Endangered Wildlife and Plants" (part 17), "Marine Mammals" (part 18), "Migratory Birds" (part 21), "Eagles" (part 22) and "Endangered Species Convention" (part 23). As used in this part 13, the term "permit" shall refer to either a license, permit, or certificate as the context may require.

§ 13.4 Emergency variation from requirements.

The Director may approve variations from the requirements of this part when he finds that an emergency exists and that the proposed variations will not hinder effective administration of this subchapter B, and will not be unlawful.

Subpart B -- Application for Permits

§ 13.11 Application procedures.

The Service may not issue a permit for any activity authorized by this subchapter B unless the applicant has filed an application in accordance with the following procedures. Applicants do not have to submit a separate application for each permit unless otherwise required by this subchapter.

(a) *Forms.* Applications must be submitted in writing on a Federal Fish and Wildlife License/Permit Application (Form 3-200) or as otherwise specifically directed by the Service.

(b) *Forwarding instructions.* Applications for permits in the following categories should be forwarded to the issuing office indicated below.

(1) Migratory bird banding permits (50 CFR 21.22) -- Bird Banding Laboratory, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Laurel, Maryland 20708. (Special application forms must be used for bird banding permits. They may be obtained by writing to the Bird Banding Laboratory).

(2) Exception to designated port (50 CFR part 14), import/export license (50 CFR 14.93), migratory bird permit, other than banding (50 CFR part 21) and Bald or Golden eagle permits (50 CFR part 22) -- Assistant Regional Director for Law Enforcement of District in which the applicant resides (see 50 CFR 10.22 for addresses and boundaries of the Law Enforcement Districts).

(3) ~~Feather quota~~ [Wild bird conservation] (50 CFR part 15), injurious wildlife (50 CFR part 16), endangered and threatened species (50 CFR part 17), marine mammal (50 CFR part 18) and permits and certificates for the Convention on International Trade in Endangered Species (CITES) (50 CFR part 23) -- U.S. Fish and Wildlife Service, ~~Federal Wildlife Permit Office, P.O. Box 3654,~~ [Office of Management Authority, 4401 N. Fairfax Drive, Room 700,] Arlington, Virginia 22203.

(c) *Time notice.* The Service will process all applications as quickly as possible. However, it cannot guarantee final action within the time limits the applicant requests. Applicants for endangered species and marine mammal permits should submit applications to the Office of Management Authority which are postmarked at least 90 calendar days prior to the requested effective date. Applicants for all other permits should submit applications to the issuing office which are postmarked at least 60 days prior to the requested effective date.

(d) *Fees.* (1) Unless otherwise exempted by this paragraph, applicants for issuance or renewal of permits must pay the required permit processing fee at the time of application. Applicants should pay fees by check or money order made payable to "U.S. Fish and Wildlife Service." The Service will not refund any application fee under any circumstances if the Service has processed the application. However, the Service may return the application fee if the applicant withdraws the application before the Service has significantly processed it.

(2) Except as provided in paragraph (d)(4) of this section, the fee for processing any application is \$25.00. If regulations in this subchapter require more than one type of permit for an activity, and the permits are issued by the same office, the issuing office may issue one consolidated permit authorizing the activity. The issuing office may charge only the highest single fee for the activity permitted.

(3) A fee shall not be charged to any Federal, State or local government agency, nor to any individual or institution under contract to such agency for the proposed activities. The fee may be waived or reduced for public institutions (see 50 CFR 10.12). Proof of such status must accompany the application.

(4) *Nonstandard fees.*

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(e) *Abandoned or incomplete applications.* Upon receipt of an incomplete or improperly executed application, or if the applicant does not submit the proper fees, the issuing office will notify the applicant of the deficiency. If the applicant fails to supply the correct information to complete the application or to pay the required fees within 45 calendar days of the date of notification, the Service will consider the application abandoned. The Service will not refund any fees for an abandoned application.

§ 13.12 General information requirements on applications for permits.

(a) General information required for all applications. All applications must contain the following information:

(1) Applicant's full name, mailing address, telephone number(s), and,

(i) If the applicant is an individual, the date of birth, height, weight, hair color, eye color, sex, and any business or institutional affiliation of the applicant related to the requested permitted activity; or

(ii) If the applicant is a corporation, firm, partnership, association, institution, or public or private agency, the name and address of the president or principal officer and of the registered agent for the service of process;

(2) Location where the requested permitted activity is to occur or be conducted;

(3) Reference to the part(s) and section(s) of this subchapter B as listed in paragraph (b) of this section under which the application is made for a permit or permits, together with any additional justification, including supporting documentation as required by the referenced part(s) and section(s);

(4) If the requested permitted activity involves the import or re-export of wildlife or plants from or to any foreign country, and the country of origin, or the country of export or re-export restricts the taking, possession, transportation, exportation, or sale of wildlife or plants, documentation as indicated in § 14.52(c) of this subchapter B;

(5) Certification in the following language:

I hereby certify that I have read and am familiar with the regulations contained in title 50, part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of chapter I of title 50, Code of Federal Regulations, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to suspension or revocation of this permit and to the criminal penalties of 18 U.S.C. 1001.

(6) Desired effective date of permit except where issuance date is fixed by the part under which the permit is issued;

(7) Date;

(8) Signature of the applicant; and

(9) Such other information as the Director determines relevant to the processing of the application.

(b) *Additional information required on permit applications.* As stated in paragraph (a)(3) of this section certain additional information is required on all applications. These additional requirements may be found by referring to the section of this subchapter B cited after the type of permit for which application is being made:

<u>Type of permit</u>	<u>Section</u>
Feather import quota [Wild bird conservation]	15.22
Importation or entry ...	15.25
Injurious wildlife	
Importation or shipment ...	16.22
Endangered wildlife and plant permits:	
Similarity of appearance ...	17.52
Scientific, enhancement of propagation or survival, incidental taking for wildlife...	17.22
Scientific, propagation, or survival for plants ...	17.62
Economic hardship for wildlife ...	17.23
Economic hardship for plants ...	17.63

Threatened wildlife and plant permits:	
Similarity of appearance ...	17.52
General for wildlife ...	17.32
American alligator--buyer or tanner...	17.42(a)
General for plants	17.72
Marine mammals permits:	
Scientific research	18.31
Public display	18.31
Endangered Species Convention permits...	23.15

Subpart C -- Permit Administration

§ 13.21 Issuance of permits.

(a) No permit may be issued prior to the receipt of a written application therefor, unless a written variation from the requirements, as authorized by § 13.4, is inserted into the official file of the Bureau. An oral or written representation of an employee or agent of the United States Government, or an action of such employee or agent, shall not be construed as a permit unless it meets the requirements of a permit as defined in 50 CFR 10.12.

(b) Upon receipt of a properly executed application for a permit, the Director shall issue the appropriate permit unless:

(1) The applicant has been assessed a civil penalty or convicted of any criminal provision of any statute or regulation relating to the activity for which the application is filed, if such assessment or conviction evidences a lack of responsibility.

(2) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his application;

(3) The applicant has failed to demonstrate a valid justification for the permit and a showing of responsibility;

(4) The authorization requested potentially threatens a wildlife or plant population, or

(5) The Director finds through further inquiry or investigation, or otherwise, that the applicant is not qualified.

(c) *Disqualifying factors.* Any one of the following will disqualify a person from receiving permits issued under this Part.

(1) A conviction, or entry of a plea of guilty or nolo contendere, for a felony violation of the Lacey Act, the Migratory Bird Treaty Act, or the Bald and Golden Eagle Protection Act disqualifies any such person from receiving or exercising the privileges of a permit, unless such disqualification has been expressly waived by the Director in response to a written petition.

(2) The revocation of a permit for reasons found in §13.28 (a)(1) or (a)(2) disqualifies any such person from receiving or exercising the privileges of a similar permit for a period of five years from the date of the final agency decision on such revocation.

(3) The failure to pay any required fees or assessed costs and penalties, whether or not reduced to judgement disqualifies such person from receiving or exercising the privileges of a permit as long as such moneys are owed to the United States. This requirement shall not apply to any civil penalty presently subject to administrative or judicial appeal; provided that the pendency of a collection action brought by the United States or its assignees shall not constitute an appeal within the meaning of this subsection.

(4) The failure to submit timely, accurate, or valid reports as required may disqualify such person from receiving or exercising the privileges of a permit as long as the deficiency exists.

(d) *Use of supplemental information.* The issuing officer, in making a determination under this subsection, may use any information available that is relevant to the issue. This may include any prior conviction, or entry of a plea of guilty or nolo contendere, or assessment of civil or criminal penalty for a violation of any Federal or State law or regulation governing the permitted activity. It may also include any prior permit revocations or suspensions, or any reports of State or local officials. The issuing officer shall consider all relevant facts or information available, and may make independent inquiry or investigation to verify information or substantiate qualifications asserted by the applicant.

(e) *Conditions of issuance and acceptance.* (1) Any permit automatically incorporates within its terms the conditions and requirements of Subpart D of this part and of any part(s) or section(s) specifically authorizing or governing the activity for which the permit is issued.

(2) Any person accepting and holding a permit under this Subchapter B acknowledges the necessity for close regulation and monitoring of the permitted activity by the Government. By accepting such permit, the permittee consents to and shall allow entry by agents or employees of the Service upon premises where the permitted activity is conducted at any reasonable hour. Service agents or employees may enter such premises to inspect the location; any books, records, or permits required to be kept by this Subchapter B; and any wildlife or plants kept under authority of the permit.

(f) *Term of permit.* Unless otherwise modified, a permit is valid during the period specified on the face of the permit. Such period shall include the effective date and the date of expiration.

(g) *Denial*. The issuing officer may deny a permit to any applicant who fails to meet the issuance criteria set forth in this section or in the part(s) or section(s) specifically governing the activity for which the permit is requested.

§ 13.22 Renewal of permits.

(a) *Application for renewal*. Applicants for renewal of a permit must submit a written application at least 30 days prior to the expiration date of the permit. Applicants must certify in the form required by § 13.12(a)(5) that all statements and information in the original application remain current and correct, unless previously changed or corrected. If such information is no longer current or correct, the applicant must provide corrected information.

(b) *Renewal criteria*. The Service shall issue a renewal of a permit if the applicant meets the criteria for issuance in § 13.21(b) and is not disqualified under § 13.21(c).

(c) *Continuation of permitted activity*. Any person holding a valid, renewable permit, who has complied with this section, may continue the activities authorized by the expired permit until the Service has acted on such person's application for renewal.

(d) *Denial*. The issuing officer may deny renewal of a permit to any applicant who fails to meet the issuance criteria set forth in § 13.21 of this part, or in the part(s) or section(s) specifically governing the activity for which the renewal is requested.

§ 13.23 Amendment of permits.

(a) *Permittee's request*. Where circumstances have changed so that a permittee desires to have any condition of his permit modified, such permittee must submit a full written justification and supporting information in conformity with this part and the part under which the permit was issued.

(b) *Service reservation*. The Service reserves the right to amend any permit for just cause at any time during its term, upon written finding of necessity.

(c) *Change of name or address*. A permittee is not required to obtain a new permit if there is a change in the legal individual or business name, or in the mailing address of the permittee. A permittee is required to notify the issuing office within 10 calendar days of such change. This provision does not authorize any change in location of the conduct of the permitted activity when approval of the location is a qualifying condition of the permit.

§ 13.24 Right of succession by certain persons.

(b) In order to secure the right provided in this section the person or persons desiring to continue the activity shall furnish the permit to the issuing officer for endorsement within 90 days from the date the successor begins to carry on the activity.

**MARINE MAMMAL PERMIT APPLICATIONS
FROM FOREIGN APPLICANTS
Policy Statement**

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice sets forth the U.S. Fish and Wildlife Service policy for considering Marine Mammal Permit applications from foreign facilities. Without this policy, it would be impossible for the Service to ensure compliance with conditions contained in the Marine Mammal permits issued to foreign facilities.

FOR FURTHER INFORMATION CONTACT: ~~Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Telephone: (202) 254-8100.~~ [Teiko Saitol, Chief, Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203. Telephone: (703) 358-2093.]

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service (FWS) has determined that, under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), its responsibilities with respect to the care and maintenance of animals in facilities outside the jurisdiction of the United States can be met only if there is independent evidence upon which to base a conclusion as to the reliability of statements concerning existing or planned facilities set forth in an application, as well as independent evidence that the Government having jurisdiction over the facility has the appropriate laws and regulations to ensure compliance with permit conditions, including the permittee's duty to provide to FWS essential periodic reports, and is willing to do so. This policy is almost the same as the one published March 12, 1975 (40 FR 11619)¹ by the National Marine Fisheries Service which has jurisdiction over certain species under the Marine Mammal Protection Act.

Notice is hereby given that no application from a foreign facility for a permit to take marine mammals for export from the United States will be considered unless:

- (a) It is submitted to the Director, FWS, through an appropriate agency of a foreign government;
- (b) It includes, in addition to the information required by pertinent regulations (50 CFR 18.31):
 - i. A certification from such appropriate government agency verifying the information set forth in the application;
 - ii. A certification from such appropriate government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit and that the government will enforce such terms;
 - iii. A statement from the government concerned that it will afford comity to a FWS decision to amend, suspend, or revoke a permit.

For purposes of obtaining certification from the appropriate government agency, a foreign facility may obtain a copy of the general conditions of a permit by writing to: Director, Fish and Wildlife Service, ~~U.S. Department of the Interior, Washington, D.C. 20240.~~ [c/o Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203. Telephone: (703) 358-2104.]

For purposes of this notice and the processing of all applications from a foreign facility for a permit, "appropriate government agency" means that agency or agencies of a foreign government which perform functions and activities similar to the functions and activities performed by FWS.

This notice was prepared by Donald G. Donahoo and Arthur Lazarowitz of the Federal Wildlife Permit Office.

Dated: October 31, 1977.

Lynn A. Greenwalt,
Director, U.S. Fish and Wildlife Service

[FR Doc. 77-82638 Filed 11-9-77; 8:45 a.m.]

TAKE AND IMPORT OF MARINE MAMMALS --EXCERPTS FROM 50 CFR 18 -- MARINE MAMMALS

Subpart A -- Introduction

§ 18.1 Purpose of regulations.

The regulations contained in this part implement the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), which among other things, restricts the taking, possession, transportation, selling, offering for sale, and importing of marine mammals.

§ 18.2 Scope of regulations.

(a) This part 18 applies solely to marine mammals and marine mammal products as defined in § 18.3. For regulations under the Act with respect to cetacea (whales and porpoises), pinnipedia, other than walrus (seals and sea lions), see 50 CFR part 216.

(b) The provisions in this part are in addition to, and are not in lieu of, other regulations of this subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife. (See also part 13 of this subchapter.)

§ 18.3 Definitions.

In addition to definitions contained in section 3 of the Act and in part 10 of this subchapter, and unless the context requires otherwise, in this part 18:

Act means the Marine Mammal Protection Act of 1972, 86 Stat. 1027, 16 U.S.C. 1361-1407; Pub. L. 92-522.

Endangered species means a species of marine mammal listed as "endangered" pursuant to the Endangered Species Act of 1973, 87 Stat. 884, Pub. L. 93 - 205 (see Part 17 of this subchapter).

Marine mammal means any specimen of the following species, whether alive or dead, and any part thereof, including but not limited to, any raw, dressed, or dyed fur or skin:

<u>Scientific Name</u>	<u>Common Name</u>	<u>Date Listed</u>
<i>Ursus maritimus</i>	Polar Bear	Dec. 21, 1972.
<i>Enhydra lutris</i>	Sea Otter	Do.
<i>Odobenus rosmarus</i>	Walrus	Do.
<i>Dugong dugon</i>	Dugong	Do.
<i>Trichechus manatus</i>	West Indian manatee	Do.
<i>Trichechus inunguis</i>	Amazonian manatee	Do.
<i>Trichechus senegalensis</i>	West African manatee	Do.
<i>Lutra felina</i>	Marine otter	Mar. 29, 1978.

NOTE: Common names given may be at variance with local usage.

Pregnant means pregnant near term.

Take means to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal, including, without limitation, any of the following: The collection of dead animals or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; or the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in the disturbing or molesting of a marine mammal.

Threatened species means a species of marine mammal listed as "threatened" pursuant to the Endangered Species Act of 1973, 87 Stat. 884, Pub. L. 93-205.

Subpart B -- Prohibitions

§ 18.11 Prohibited taking.

Except as otherwise provided in subpart C, D, or H of this part 18, or part 403, it is unlawful for:

(a) Any person, vessel, or conveyance subject to the jurisdiction of the United States to take any marine mammal on the high seas, or

(b) Any person, vessel, or conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States.

§ 18.12 Prohibited importation.

(a) Except as otherwise provided in subparts C and D of this part 18, it is unlawful for any person to import any marine mammal or marine mammal product into the United States.

(b) Regardless of whether an importation is otherwise authorized pursuant to subparts C and D of this part 18, it is unlawful for any person to import into the United States any:

- (1) Marine mammal: (i) Taken in violation of the Act, or
- (ii) Taken in another country in violation of the laws of that country;
- (2) Any marine mammal product if: (i) The importation into the United States of the marine mammal from which such product is made would be unlawful under paragraph (b)(1) of this section, or
- (ii) The sale in commerce of such product in the country of origin of the product is illegal.
- (c) Except in accordance with an exception referred to in Subpart C and §§ 18.31 and 18.32 of this part, it is unlawful to import into the United States any:
 - (1) Marine mammal which was pregnant at the time of taking;
 - (2) Marine mammal which was nursing at the time of taking, or less than 8 months old, whichever occurs later;
 - (3) Specimen of an endangered or threatened species of marine mammals;
 - (4) Specimen taken from a depleted species or stock of marine mammals; or
 - (5) Marine mammal taken in an inhumane manner.
- (d) It is unlawful to import into the United States any fish, whether fresh, frozen, or otherwise prepared, if such fish was caught in a manner proscribed by the Secretary of Commerce for persons subject to the jurisdiction of the United States, whether or not any marine mammals were in fact taken incident to the catching of the fish.

§ 18.13 Prohibited uses, possession, transportation, and sales.

Except as otherwise provided in the Act or these regulations, it is unlawful for:

- (a) Any person to use any port, harbor, or other place under the jurisdiction of the United States for any purpose in any way connected with a prohibited taking or any unlawful importation of any marine mammal or marine mammal products;
- (b) Any person to possess any marine mammal, or product therefrom, taken in violation of the Act or these regulations;
- (c) Any person to transport, purchase, sell, or offer to purchase or sell any marine mammal or marine mammal product; or
- (d) Any person subject to the jurisdiction of the United States to use in a commercial fishery, any means or method of fishing in contravention of regulations and limitations issued by the Secretary of Commerce for that fishery to achieve the purposes of this Act.

§ 18.14 Marine mammals taken before the Act.

(a) Section 102(e) of the Act provides in effect that the Act shall not apply to any marine mammal taken prior to December 21, 1972, or to any marine mammal product consisting of, or composed in whole or in part of, any marine mammal taken before such date. Such status may be established by submitting to the Director prior to, or at the time of importation, an affidavit containing the following:

- (1) The Affiant's name and address;
- (2) Identification of the Affiant;
- (3) A description of the marine mammals or marine mammal products which the Affiant desires to import;
- (4) A statement by the Affiant that to the best of his knowledge and belief, the marine mammals involved in the application were taken prior to December 21, 1972;
- (5) A statement by the Affiant in the following language:

The foregoing is principally based on the attached exhibits which, to the best of my knowledge and belief, are complete, true and correct. I understand that this affidavit is being submitted for the purpose of inducing the Federal Government to permit the importation of _____ under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and regulations promulgated thereunder, and that any false statements may subject me to the criminal penalties of 18 U.S.C. 1001.

(b) Either one of two exhibits shall be attached to such affidavit, and will contain either:

- (1) Records or other available evidence showing that the product consists of or is composed in whole or in part of marine mammals taken prior to December 21, 1972. Such records or other evidentiary material must include information on how, when, where, and by whom the animals were taken, what processing has taken place since taking, and the date and location of such processing; or
- (2) A statement from a government agency of the country of origin exercising jurisdiction over marine mammals that any and all such mammals from which the products sought to be imported were derived were taken prior to December 21, 1972.

(c) Service agents, or Customs officers, may refuse to clear marine mammals or marine mammal products for importation into the United States, pursuant to § 14.53 of this subchapter, until the importer can demonstrate, by production of the affidavit referred in above or otherwise, that section 102(e) of the Act applies to all affected items.

(d) This section has no application to any marine mammal or marine mammal product intended to be imported pursuant to § 18.21, § 18.31 or § 18.32 of this part.

Subpart D -- Special Exceptions

§ 18.31 Scientific research permits and public display permits.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the taking and importation of marine mammals for scientific research purposes or for public display.

(a) *Application procedure.* Applications for permits to take and import marine mammals for scientific research purposes or for public display shall be submitted to the Director. Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

- (1) A statement of the purpose, date, location and manner of the taking or importation;
- (2) A description of the marine mammal or the marine mammal products to be taken or imported, including the species or subspecies involved; the population stock, when known, the number of specimens or products (or the weight thereof, where appropriate); and the anticipated age, size, sex, and condition (i.e., whether pregnant or nursing) of the animals involved;
- (3) If the marine mammal is to be taken and transported alive, a complete description of the manner of transportation, care and maintenance, including the type, size, and construction of the container or artificial environment; arrangements for feeding and sanitation; a statement of the applicant's qualifications and previous experience in caring for and handling captive marine mammals and a like statement as to the qualifications of any common carrier or agent to be employed to transport the animal; and a written certification of a licensed veterinarian knowledgeable in the field of marine mammals that he has personally reviewed the arrangements for transporting and maintaining the animals and that in his opinion they are adequate to provide for the well-being of the animal;
- (4) If the application is for a scientific research permit, a detailed description of the scientific research project or program in which the marine mammal or marine mammal product is to be used including a copy of the research proposal relating to such program or project and the names and addresses of the sponsor or cooperating institution and the scientists involved;
- (5) If the application is for a scientific research permit, and if the marine mammal proposed to be taken or imported is listed as an endangered or threatened species or has been designated by the Secretary as depleted, a detailed justification of the need for such a marine mammal, including a discussion of possible alternatives, whether or not under the control of the applicant; and
- (6) If the application is for a public display permit, a detailed description of the proposed use to which the marine mammal or marine mammal product is to be put, including the manner, location, and times of display, whether such display is for profit, an estimate of the numbers and types of persons who it is anticipated will benefit for such display, and whether and to what extent the display is connected with educational or scientific programs. There shall also be included a complete description of the enterprise seeking the display permit and its educational, and scientific qualifications, if any.

(b) *Review by Marine Mammal Commission.* Upon receipt of an application the Director shall forward the application to the Marine Mammal Commission together with a request for the recommendations of the Commission and the Committee of Scientific Advisors on Marine Mammals. In order to comply with the time limits provided in these regulations, the Director shall request that such recommendation be submitted within 30 days of receipt of the application by the Commission. If the Commission or the Committee, as the case may be, does not respond within 30 days from the receipt of such application by the Commission, the Director shall advise the Commission in writing that failure to respond within 45 days from original receipt of the application (or such longer time as the Director may establish) shall be considered as a recommendation from the Commission and the Committee that the permit be issued. The Director may also consult with any other person, institution or agency concerning the application.

(c) *Issuance criteria.* Permits applied for under this section shall be issued, suspended, modified and revoked pursuant to regulations contained in §18.33. In determining whether to issue a scientific research permit, the Director shall consider whether the proposed taking or importation will be consistent with the policies and purposes of the Act; and whether the granting of the permit is required to further a bona fide and necessary or desirable scientific purpose, taking into account the benefits anticipated to be derived from the scientific research contemplated and the effect of the purposed taking or importation on the population stock and the marine ecosystem. In determining whether to issue a public display permit, the Director shall consider whether the proposed taking or importation will be consistent with the policies and purposes of the Act; whether a substantial public benefit will be gained from the display contemplated, taking into account the manner of the display and the anticipated audience on the one hand, and the effect of the proposed taking or importation on the population stocks of the marine mammal in question and the marine ecosystem on the other; and the applicant's qualifications for the proper care and maintenance of the marine mammal or the marine mammal product, and the adequacy of his facilities.

(d) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, permits issued under this section shall be subject to the following conditions:

(1) Any permit issued under these regulations must be in the possession of the person to whom it is issued (or an agent of such person) during:

- (i) The time of the authorized taking or importation;
- (ii) The period of any transit of such person or agent which is incidental to such taking or importation; and
- (iii) Any other time while any marine mammal taken or imported under such permit is in the possession of such person or agent.

(2) A duplicate copy of the issued permit must be physically attached to the container, package, enclosure, or other means of containment, in which the marine mammal is placed for purposes of storage, transit, supervision, or care.

(e) *Tenure of permits.* The tenure of permits for scientific research or public display shall be designated on the face of the permit.

§ 18.33 Procedures for issuance of permits and modification, suspension or revocation thereof.

(a) Whenever application for a permit is received by the director which the director deems sufficient, he shall, as soon as practicable, publish a notice thereof in the Federal Register. Such notice shall set forth a summary of the information contained in such application. Any interested party may, within 30 days after the date of publication of such notice, submit to the director his written data or views with respect to the taking or importation proposed in such application and may request a hearing in connection with the action to be taken thereon.

(b) If the request for a hearing is made within the 30-day period referred to in paragraph (a) of this section, or if the director determines that a hearing would otherwise be advisable, the director may, within 60 days after the date of publication of the notice referred to in paragraph (a) of this section, afford to such requesting party or parties an opportunity for a hearing. Such hearing shall also be open to participation by any interested members of the public. Notice of the date, time, and place of such hearing shall be published in the FEDERAL REGISTER not less than 15 days in advance of such hearing. Any interested person may appear in person or through representatives at the hearing and may submit any relevant material, data, views, comments, arguments, or exhibits. A summary record of the hearing shall be kept.

(c) As soon as practicable but not later than 30 days after the close of the hearing (or if no hearing is held, as soon as practicable after the end of the 30 days succeeding publication of the notice referred to in paragraph (a) of this section the director shall issue or deny issuance of the permit. Notice of the decision of the director shall be published in the FEDERAL REGISTER within 10 days after the date of such issuance or denial. Such notice shall include the date of the issuance or denial and indicate where copies of the permit, if issued, may be obtained.

(d) Any permit shall be subject to modification, suspension, or revocation by the director in whole or in part in accordance with these regulations and the terms of such permits. The permittee shall be given written notice by registered mail, return receipt requested, of any proposed modification, suspension, or revocation. Such notice shall specify:

- (1) The action proposed to be taken along with a summary of the reasons therefor;
- (2) In accordance with 5 U.S.C. 558, the steps which the permittee may take to demonstrate or achieve compliance with all lawful requirements; and
- (3) That the permittee is entitled to a hearing thereon if a written request for such a hearing is received by the Director within 10 days after receipt of the aforesaid notice or such other later date as may be specified in the notice to the permittee. The time and place of the hearing, if requested by the permittee, shall be determined by the director and a written notice thereof given to the permittee by registered mail, return receipt requested, not less than 15 days prior to the date of hearing specified. The director may, in his discretion, allow participation at the hearing by interested members of the public. The permittee and other parties participating may submit all relevant material, data, views, comments, arguments, and exhibits at the hearing. A summary record shall be kept of any such hearing.

(e) The Director shall make a decision regarding the proposed modification, suspension, or revocation, as soon as practicable after the close of the hearing, or if no hearing is held, as soon as practicable after the close of the 10 day period during which a hearing could have been requested. Notice of the modification, suspension, or revocation shall be published in the Federal Register within 10 days from the date of the Director's decision. In no event shall the proposed action take effect until notice of the Director's decision is published in the FEDERAL REGISTER.